



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

75 Hawthorne Street  
San Francisco, CA 94105

FEB 15 2017

UPS PRIORITY OVERNIGHT/EXPRESS MAIL  
SIGNATURE REQUIRED

Mr. John Flaminio  
General Manager  
Veolia ES Technical Solutions LLC  
1704 West 1<sup>st</sup> Street  
Azusa, CA 91702-3203

**RE: Notice of Intent to File a Complaint Pursuant to Section 3008(a) of the Resource Conservation and Recovery Act**

Dear Mr. Flaminio:

This letter is to notify you that the U.S. Environmental Protection Agency (the "EPA") is preparing to issue a civil administrative complaint against Veolia ES Technical Solutions LLC pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6921-6939e, for violations discovered during a routine compliance evaluation inspection performed from May 17th to 20th, 2016 at the Veolia ES Technical Solutions LLC Azusa Facility located at 1704 West 1<sup>st</sup> Street in Azusa, California (RCRA ID Number: CAD008302903).

The allegations against Veolia ES Technical Solutions LLC include violations of the RCRA Hazardous Waste Management requirements, 42 U.S.C. § 6921 *et seq.*, its implementing regulations, the California Health and Safety Code, Division 20, and the California Code of Regulations (C.C.R.), Title 22, Division 4.5, as specified below. Under Section 3006 of RCRA, 42 U.S.C. § 6926, the violations of the State of California authorized RCRA hazardous waste management program identified below are federally enforceable.

The allegations against Veolia ES Technical Solutions LLC include:

1. Failure to meet various air emission standards requirements in Title 22 of the C.C.R., Division 4.5, Chapter 14, Articles 27, 28 and 28.5 [see also 40 Code of Federal Regulations (C.F.R.) Part 264 Subparts AA, BB and CC];
2. Failure to comply with all conditions of the facility's hazardous wastes permit, 22 C.C.R. § 66270.30(a) [see also 40 C.F.R. § 270.30(a)]; and
3. Failure to comply with requirements for the integrity assessment of existing tank system, 22 C.C.R. § 66264.191 [see also 40 C.F.R. § 264.191].

A copy of the inspection report, which contains the allegations, is enclosed for your information and response.

EPA regulations governing the confidentiality of business information are set forth in 40 C.F.R. Part 2, Subpart B. EPA routinely provides copies of investigation reports to state agencies, and upon request, to the public. Such releases are handled according to the Freedom of Information Act regulations (40 C.F.R. Part 2). If Veolia ES Technical Solutions LLC believes the enclosed report contains information entitled to treatment as confidential business information, please assert a confidentiality claim in accordance with 40 C.F.R. § 2.203(b) **within fourteen (14) calendar days from the date of receipt of this letter**. Business confidentiality includes the concept of trade secrecy and other related concepts. Your claim must specifically identify the information covered by the claim and should be sent to EPA by certified mail. EPA will construe the failure to furnish a confidentiality claim within **fourteen (14) calendar days** from the date of Veolia ES Technical Solutions LLC's receipt of this letter as a waiver of that claim and information may be made available to the public by the EPA without further notice. See 40 C.F.R. § 2.203(a)(2).

EPA anticipates filing a Complaint, Compliance Order and Notice of Right to Request a Hearing (Complaint) against Veolia ES Technical Solutions LLC **within the next twenty-eight (28) calendar days** unless Veolia ES Technical Solutions LLC advises EPA of substantial reasons not to proceed. EPA is extending to Veolia ES Technical Solutions LLC the opportunity to submit any information that EPA should consider before issuing the Complaint. Relevant information may include any evidence of reliance on compliance assistance, additional compliance tasks performed after the inspection, or financial factors bearing on Veolia ES Technical Solutions LLC's ability to pay a civil penalty. Even if you are unaware of any mitigating or exculpatory factors, we are extending to you the opportunity to commence settlement discussions concerning the above-described violations.

The violations alleged are subject to penalties of up to \$71,264 per day per violation pursuant to section 3008(g) of RCRA, 42 U.S.C. § 6928(g) and the Civil Monetary Penalty Inflation Adjustment Rule (82 Fed. Reg. 3633 (January 12, 2017)).

Any penalty discussed in settlement negotiations for violations of RCRA and its implementing regulations will be calculated pursuant to EPA's RCRA Civil Penalty Policy, available online at <http://www2.epa.gov/enforcement/resource-conservation-and-recovery-act-rcra-civil-penalty-policy> and EPA's Revision to Adjusted Penalty Policy Matrices Package Issued on November 16, 2009 <https://www.epa.gov/sites/production/files/documents/revisionpenaltypolicy04910.pdf>.

EPA's "Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation" (Effective August 1, 2016) and Supplemental Environmental Projects Policy (SEP Policy) are available at the links below. EPA's SEP Policy describes the terms under which a commitment to perform an environmental project may mitigate, in part, an EPA civil penalty.

- EPA's "Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation," which adjusts for inflation the statutory civil monetary penalties that may be assessed for violations of EPA-administered statutes

and their implementing regulations, available online at:  
<https://www.epa.gov/sites/production/files/2017-01/documents/finalpenaltyinflationguidance.pdf>

- EPA's Supplemental Environmental Project (SEP) Policy 2015 Update, available online at: <http://www2.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf>

In addition, please review the attached Small Business Regulatory Enforcement and Fairness Act ("SBREFA") Information Sheet that is designed to provide information on compliance assistance, as well as to inform small businesses of their rights to comment to the SBREFA Ombudsman concerning EPA enforcement activities. Be aware that SBREFA does not eliminate your responsibility to respond to a complaint, information request, or other enforcement activity within the allowed time nor does it create any new rights or defenses under the law.

Enclosed for your information are requirements of the Securities and Exchange Commission ("SEC") for "registrants" to provide information on environmental legal proceedings to the public. To determine the applicability of these requirements to your company you should seek competent legal counsel as described in the enclosed SEC Notice.

Thank you for your prompt attention to this matter. If you wish to discuss this matter or commence settlement negotiations, please contact Sharon Lin at (415) 972-3446 or at [lin.sharon@epa.gov](mailto:lin.sharon@epa.gov) or have your attorney contact Xiao Zhang of the Office of Regional Counsel at (415) 972-3266 or at [zhang.xiao@epa.gov](mailto:zhang.xiao@epa.gov).

Sincerely,



Douglas K. McDaniel  
Chief, Waste and Chemical Section  
Enforcement Division

cc by email: Ron Daerr, Environmental Health & Safety Manager, Veolia ES Technical Solutions LLC, [Ron.Daerr@veolia.com](mailto:Ron.Daerr@veolia.com)

Enclosures: Inspection Report (CD)  
SBREFA Information Sheet  
Notice of SEC Registrants' Duty to Report



## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### Small Business Programs

[www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)  
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

### EPA's Asbestos Small Business Ombudsman

[www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888  
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

### EPA's Compliance Assistance Homepage

[www2.epa.gov/compliance](http://www2.epa.gov/compliance)  
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

### EPA's Compliance Assistance Centers

[www.assistancecenters.net](http://www.assistancecenters.net)  
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

### Agriculture

[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

**Automotive Service and Repair**  
[ccar-greenlink.org/](http://ccar-greenlink.org/) or 1-888-GRN-LINK

**Chemical Manufacturing**  
[www.chemalliance.org](http://www.chemalliance.org)

**Construction**  
[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

**Education**  
[www.campuserc.org](http://www.campuserc.org)

**Food Processing**  
[www.fpeac.org](http://www.fpeac.org)

**Healthcare**  
[www.hercenter.org](http://www.hercenter.org)

**Local Government**  
[www.lgean.org](http://www.lgean.org)

**Metal Finishing**  
[www.nmfrc.org](http://www.nmfrc.org)

**Paints and Coatings**  
[www.paintcenter.org](http://www.paintcenter.org)

**Printing**  
[www.pneac.org](http://www.pneac.org)

**Ports**  
[www.portcompliance.org](http://www.portcompliance.org)

**Transportation**  
[www.tercenter.org](http://www.tercenter.org)

**U.S. Border Compliance and Import/Export Issues**  
[www.bordercenter.org](http://www.bordercenter.org)

### EPA Hotlines, Helplines and Clearinghouses

[www2.epa.gov/home/epa-hotlines](http://www2.epa.gov/home/epa-hotlines)  
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

**Clean Air Technology Center (CATC) Info-line**  
[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

**Superfund, TRI, EPCRA, RMP and Oil Information Center**  
[www.epa.gov/superfund/contacts/infocenter/index.htm](http://www.epa.gov/superfund/contacts/infocenter/index.htm) or 1-800-424-9346

**EPA Imported Vehicles and Engines Public Helpline**  
[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or 734-214-4100

**National Pesticide Information Center**  
[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

**National Response Center Hotline** to report oil and hazardous substance spills - [www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

**Pollution Prevention Information Clearinghouse (PPIC)** - [www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or 1-202-566-0799

**Safe Drinking Water Hotline** - [www.epa.gov/drink/hotline/index.cfm](http://www.epa.gov/drink/hotline/index.cfm) or 1-800-426-4791

## Small Business Resources

### Stratospheric Ozone Protection Hotline

[www.epa.gov/ozone/comments.htm](http://www.epa.gov/ozone/comments.htm) or 1-800-296-1996

### Toxic Substances Control Act (TSCA) Hotline

[tscs-hotline@epa.gov](mailto:tscs-hotline@epa.gov) or 1-202-554-1404

### Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

### Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

### State Resource Locators

[www.envcap.org/statetools](http://www.envcap.org/statetools)

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

### State Small Business Environmental Assistance Programs (SBEAPs)

[www.epa.gov/sbo/507program.htm](http://www.epa.gov/sbo/507program.htm)

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

### EPA's Tribal Portal

[www.epa.gov/tribalportal/](http://www.epa.gov/tribalportal/)

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

### EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

### EPA's Small Business Compliance Policy

[www2.epa.gov/enforcement/small-businesses-and-enforcement](http://www2.epa.gov/enforcement/small-businesses-and-enforcement)

This Policy offers small businesses special incentives to come into compliance voluntarily.

### EPA's Audit Policy

[www2.epa.gov/compliance/epas-audit-policy](http://www2.epa.gov/compliance/epas-audit-policy)

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D C 20460

**NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE  
ENVIRONMENTAL LEGAL PROCEEDINGS**

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)): Such proceeding is material to the business or financial condition of the registrant;

- A. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- B. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

## **TITLE 17 - COMMODITY AND SECURITIES EXCHANGES**

Title 17, Volume 2, Parts 200 to 239

(Division: Securities and Exchange Commission)

### **Part 229 - Standard Instructions for Filing Forms Under Securities Act of 1933, Securities Exchange Act of 1934 and Energy Policy and Conservation Act of 1975-Regulation S-K**

#### **Subpart 229-100 - Business**

#### **§229.103 (Item 103) Legal proceedings**

Describe briefly any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

*Instructions to Item 103:* 1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding that involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same legal and factual issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described.

4. Any material proceedings to which any director, officer or affiliate of the registrant, any owner of record or beneficially of more than five percent of any class of voting securities of the registrant, or any associate of any such director, officer, affiliate of the registrant, or security holder is a party adverse to the registrant or any of its subsidiaries or has a material interest adverse to the registrant or any of its subsidiaries also shall be described.

5. Notwithstanding the foregoing, an administrative or judicial proceeding (including, for purposes of A and B of this Instruction, proceedings which present in large degree the same issues) arising under any Federal, State or local provisions that have been enacted or adopted regulating the discharge of materials into the environment or primary for the purpose of protecting the environment shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if:

A. Such proceeding is material to the business or financial condition of the registrant;

B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or

C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.